

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Friday the 22nd day of April, 2011.*

Nationwide Mutual Insurance
Company, et al.,

Plaintiffs,

against Record No. 110695

The Overlook, LLC, et al.,

Defendants.

The United States District Court, Eastern District of Virginia, Newport News Division, entered an order of certification to the Supreme Court of Virginia in the above-styled proceeding, Civil Action No. 4:10cv69, on April 12, 2011. Upon consideration of the order of certification and Rule 5:40 of the Rules of the Supreme Court of Virginia, this Court must respectfully decline to accept the certified question of law.

Rule 5:40 of this Court states in part: "The Supreme Court may in its discretion answer questions of law certified to it by . . . a United States district court . . . if a question of Virginia law is determinative of any proceeding pending before the certifying court." This Court finds that the question of law certified by the United States District Court is not determinative of the proceeding pending in that court and, therefore, the request is beyond the scope of Rule 5:40.

Accordingly, this Court declines to accept the certified question of law.

A Copy,

Teste:

Patricia L. Harrington

Clerk